

OFFICE OF THE ARMY GENERAL COUNSEL  
FISCAL LAW COURSE

INTRAGOVERNMENT ACQUISITIONS

***SECTION G***

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**INTRAGOVERNMENT ACQUISITIONS**

**I. CONSTITUTIONAL FOUNDATION**

- A. U.S. CONSTITUTION, ARTICLE I, SECTION 9, CLAUSE 7

No money shall be drawn from the Treasury, but in consequence of appropriations made by law.

- B. U.S. CONSTITUTION, ARTICLE II, SECTION 3

[The President] shall take care that the Laws be faithfully executed.

**II. STATUTORY FOUNDATION**

- A. ECONOMY ACT, 31 U.S.C. 1535

The head of an agency or major organizational unit within an agency may order goods or services from another major organizational unit within an agency or another agency.

- B. Annual Authorization Appropriations Acts, e.g. National Defense Authorization Act for FY94, Pub. L. No. 103-160.

**III. REGULATORY FOUNDATION**

- A. FEDERAL ACQUISITION REGULATION SUBPART 17.5

- B. DFARS 217.5

- C. AR 37-21

**IV. DEFINITIONS**

- A. INTERAGENCY ACQUISITION

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1. DoD refers to it as "Off Loading."
2. Does not apply to National Guard Federal State Agreements.

B. REQUESTING AGENCY

C. SERVICING AGENCY

V. **ECONOMY ACT** - Agencies may order goods or services from organizational units within the same agency or another agency if:

- A. Amounts are available;
- B. Head of agency or unit decides order is in the best interest of the U.S.;
- C. Agency filling the level is able to provide or get by contract the goods or services; and
- D. Goods or services cannot be provided as conveniently or cheaply by commercial enterprise.
  1. DoD now requires goods or services to be provided as convenientand as cheaply.

VI. **PROCEDURES**

A. PAYMENT

1. Made promptly by check on written request of servicing agency.
2. FAR 17.505 - May be made in advance or on providing of goods or services.

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a. Exception to usual limitation on advance payments.

3. May be for all or any part of the estimated or actual cost as determined by the servicing agency.
4. Request for payment is not subject to audit or certification in advance of payment.

B. CONDITIONS OR LIMITATIONS

A condition or limitation applicable to the requesting agency is applicable to the servicing agency.

1. Authorization and Appropriation Acts.
2. Delegations of Procurement Authority.
3. Delegations of Procurement Authority.
4. Serving agency must already be buying by contract, have unique capabilities or expertise, or be specifically authorized by law to purchase.

C. OTHER IMPACTS

1. Act does not authorize use of convict labor.
2. Act does not affect other laws about working funds, i.e. revolving funds or stack funds.

D. FORMAL AGREEMENT

1. Describe roles and responsibilities.
2. Payment provisions.
3. Ordering.
4. Term of the Agreement/Period of Performance.

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5. Termination.
  - a. Bilateral or unilateral.
  - b. Notice provisions.
6. Dispute resolution.
  - a. in-house v. 3rd party forum.
  - b. if 3rdparty forum obtain advance consent of the form.
7. DoD now requires legal review.

E. OBTAIN DETERMINATION

1. Head of the requesting agency or designee must determine it is in Government's interest to place an Economy Act order.
  - a. Must be an SES or GO level person.
  - b. Contracting Officer now only an advisor.
2. Legal authority for the acquisition otherwise exists.
3. Acquisition does not conflict with any other agency's authority or responsibility.
4. Use of a commercial or industrial activity conforms to FAR 7.3 and OMB Circular A-76.
  - a. DoD policy is to not place Government agencies in direct competition with commercial sources.
  - b. IFBs and RFPs shall not be sent to Government agencies.

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5. DFARS 217.503 - determination shall include a finding that the services cannot be performed as conveniently or more economically by private contractors.
6. If contractor used, servicing agency must comply with competition requirements.

F. PLACE ORDER

1. Order may be placed on MIPR or DD 1155.
  - a. Description of services or supplies.
  - b. Delivery requirements.
  - c. Funds citation.
  - d. Payment provisions.
  - e. Acquisition authority, as appropriate.
2. Servicing agency awards a contract for the goods or services.
  - a. If required, the servicing agency prepares J&A or D&F based on information provided by requesting agency.
  - b. Requesting agency provides other assistance, special Ts and Cs, and other requirements to comply with conditions or limitations on the requesting agency's funds.
  - c. Servicing agency complies with all other legal or regulatory requirements, including statutory authority and competition.

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(1) Protest of Liebert Corporation  
B-232234.5, April 29, 1991.

- a. Contractors are on notice that agencies may use interagency Agreement in lieu of awarding a contract.
- b. Order must be within scope of the contract.

**VI. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CORPORATIONS  
(FFRDC)**

- A. May use only if sponsoring agreement permits.
- B. Work must be within scope of general effort and FFRDC's special competency.
- C. Work should not put FFRDC in competition with domestic private industry.

**VII. OBLIGATION OF APPROPRIATION**

- A. An order placed by the requesting agency obligates an appropriation of the requesting agency.
- B. Project orders and MIPRs are obligated upon written acceptance by the servicing agency.
- C. Reimbursable orders are obligated when accepted in writing if acceptance indicates order will be financed on a reimbursable basis.
- D. Direct citation procurement obligation occurs upon receipt of copy of executed contract or evidence of existence of contract.

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- E. Economy Act orders obligated on written acceptance of the servicing agency except as provided above.
- F. Amount obligated by requesting agency is deobligated if servicing agency has not incurred an obligation before the end of the period of availability for the funds.

VIII. CONCLUSION



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GLOSSARY

**INTERAGENCY ACQUISITION** - The procedure by which an agency needing supplies or services obtains them from another agency.

**REQUESTING AGENCY** - The agency needing supplies or services.

**SERVICING AGENCY** - The agency providing supplies or services.